

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF OKLAHOMA**

**VIRGINIA ANN FREEMAN, as  
Special Administrator of the Estate of  
Ray Jack Freeman, Deceased,**

**Plaintiff,**

**v.**

**DEPARTMENT OF VETERANS  
AFFAIRS, United States of America  
(ex rel.),**


**Defendant.**

**Case No. CIV-10-464-SPS**

**OPINION AND ORDER DENYING  
DEFENDANT'S MOTION FOR SUMMARY JUDGMENT**

Upon consideration of the Defendant's Motion for Summary Judgment [Docket No. 31], the Court finds genuine issues of material fact as to the following questions: (i) whether Mr. Freeman's pulmonary fibrosis pre-dated the first administration of the drug Nitrofurantoin, and (ii) whether the Defendant breached the standard of care when it prescribed Nitrofurantoin to Mr. Freeman. The existence of such fact questions precludes summary judgment, *see* Fed. R. Civ. P. 56(a) ("The court shall grant summary judgment if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law."), and the Defendant's motion is accordingly hereby DENIED.

**DATED** this 26th day of March, 2013.

  
Steven P. Shreder  
United States Magistrate Judge  
Eastern District of Oklahoma